

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

JOSEPH HURLEY, and)
KAREN G. WRIGHT AND STEPHEN WRIGHT,)
d/b/a WRIGHT WINE WORKS,)

Plaintiffs,)

v.)

JOHN CORDERY, Delaware Alcoholic)
Beverage Control Commissioner,)

Defendant.)

Civ. No. 05-826-SLR

**DEFENDANT'S MOTION FOR EXTENSION OF DATES IN SCHEDULING
ORDER**

NOW COMES, State Defendant John H. Cordrey, by and through the undersigned counsel, and hereby moves this Honorable Court for an extension of dates set forth in the Court's Scheduling Order dated April 25, 2007. The following is provided in support of this application:

1. According to the Court's Scheduling Order dated April 25, 2007 (D.I. 19), Defendant's Answer was due on or before May 25, 2007; all discovery is to be completed on or before September 28, 2007; and all summary judgment motions are due to be filed on or before October 31, 2007.

2. Defendant's Answer was filed on May 25, 2007 (D.I. 20), in accordance with the Scheduling Order.

3. On September 10, 2007, Defendant received a copy of Plaintiffs' Interrogatories Directed to Defendant Cordrey. Defendant's responses to Plaintiffs' Interrogatories are not due until on or about October 11, 2007, which is past the

September 28th deadline for discovery completion and approximately 3 weeks before the October 31st date for filing summary judgment.

4. Defendant has not previously requested an extension of the deadlines set forth in the Scheduling Order.

5. Defendant intends to undertake discovery, but did not intend to initiate discovery unless and until Plaintiffs had done so, as Plaintiffs are responsible for the prosecution of their litigation.

6. Additionally, a case currently on appeal in the United States Court of Appeals for the First Circuit, *Cherry Hill Vineyard v. Baldacci, et. al*, Case No. 07-1513, that involves issues similar to this litigation, had arguments on September 5, 2007, and the outcome of the First Circuit Court's decision may have an impact on this litigation, including issues to be clarified in discovery. Messrs. Epstein and Tanford are also plaintiffs' counsel in the *Cherry Hill* litigation.

7. Defendant respectfully requests an extension of three months in order to allow completion of discovery on or before December 28, 2007 and filing of motions for summary judgment on or before January 31, 2008.

8. The undersigned attorney submits that she contacted each opposing counsel, including local counsel, by phone and email on September 27, 2007 as a reasonable effort to reach an agreement on the matters set forth in this motion. The undersigned learned that local counsel, Mr. Folsom, is out of town until Monday, October 1, 2007. Also, as of the time this filing, Mr. Tanford was willing to provide Defendant with a 60-day extension, but not a 90-day extension. D. Del. L. R. 7.1.1.

WHEREFORE, Defendant requests this Honorable Court to grant Defendant's request for an extension of dates for discovery completion and filing of motions for summary judgment, and to enter the attached Order that sets forth the modified dates.

Respectfully submitted,

STATE OF DELAWARE
DEPARTMENT OF JUSTICE

/s/ Laura L. Gerard

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Attorney for State Defendant
John H. Cordrey

Dated: September 28, 2007

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Defendant.)

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ORDER

WHEREAS after consideration of the arguments raised in Defendant Cordrey's Motion for Extension of Dates in the Scheduling Order dated April 25, 2007,

IT IS SO ORDERED this _____ and of _____, 2007, that the Defendant's Motion is hereby granted and the Scheduling Order will be modified as follows:

1. All discovery shall be completed on or before December 28, 2007.
2. All summary judgment motions shall be served and filed with an opening brief on or before January 31, 2008. Briefing shall be pursuant to D. Del. LR 7.1.2. No summary judgment motion may be filed more than ten (10) days from the above date without leave of the court.

Defendant's Answer date and other requirements set forth in the Scheduling Order previously issued in this case will remain in effect.

Honorable Sue L. Robinson
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on September 28, 2007, I electronically filed the attached Defendant's Motion for Extension of Dates in Scheduling Order, with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following:

Robert D. Epstein, Esq.
Epstein, Cohen, Donahoe & Mendes
50 S. Meridian St., Suite 505
Indianapolis, IN 46204

James A. Tanford, Esq.
Indiana University School of Law
211 South Indiana Ave.
Bloomington, IN 47405

I hereby certify that on September 28, 2007, I have mailed by United States Postal Service, the document(s) to the following non-registered participants:

By U.S. Mail, first class (2 copies):

James R. Folsom, Esq.
1324 N. King Street
Wilmington, DE 19801

STATE OF DELAWARE
DEPARTMENT OF JUSTICE

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